

R E M A R K S

Claims 3 and 4 were rejected under 35 USC 101 for the reasons set forth in Item No. 1 at the top of page 2 of the Office Action.

Claims 3 and 4 were amended to avoid this rejection.

Claims 7 and 8 were rejected under 35 USC 112, second paragraph, for the reasons set forth in Item No. 2 at the middle of page 2 of the Office Action.

Claims 7 and 8 were amended to avoid the 35 USC 112, second paragraph rejection.

Claim 1 was amended in reply to Item No. 3 bridging pages 2 and 3 of the Office Action.

It is respectfully submitted that the present claims comply with all the requirements of 35 USC 101 and 35 USC 112.

In several of the amended claims, the feature of "the conjugated fatty acid glyceride contains a predominate proportion of a triglyceride" is recited. This feature is clearly supported by the specification in the last two paragraphs of page 8, in Example 2 (page 11, lines 22 to 23), in Example 9 (page 19, lines 21 to 23) and in Table 5 at the top of page 20.

Enclosed is a MARKED-UP VERSION OF THE AMENDMENTS TO THE CLAIMS.

New claim 9 includes a feature of the original claim 1.

New claim 10 is supported on page 19, line 23 of the specification.

New claim 11 is supported in the specification on page 11, lines 22 to 23.

New claim 12 is supported by Table 5 on page 20 of the specification.

New claims 13 and 14 are supported in the specification on page 3, lines 18 to 20.

New claims 15 to 17 recite features of claim 3.

In the presently claimed invention, the conjugated fatty acid glyceride contains a predominate amount of triglycerides in proportion to the entire amount of glycerides, such as 80% or more triglycerides. The conjugated fatty acid glyceride of the presently claimed invention also contains diglyceride; and the total content of the di- and triglycerides forms an overwhelming proportion of the entire amount of the glycerides. As a result, almost all the fatty acids are bonded with glycerol and, therefore, the glyceride contains a predominate proportion of the triglyceride (80% or more) and diglyceride, but less of free fatty acid, thereby having desirable results with respect of the improvement of taste, the promotion of digestion and absorption, enhanced results with respect of the treatment or prevention of

obesity, improvement of lipid metabolism and the prevention and therapeutic treatment of hyperlipidemia, as discussed in the last two paragraphs on page 8 of the specification.

Claims 1 to 5 were rejected under 35 USC 102 as being anticipated by Jose A. Arcos et al., Biotechnology Letters, June 1998, Vol. 20, No. 6, pp. 617 to 621 for the reasons set forth in Item No. 4 bridging pages 3 and 4 of the Office Action.

Jose A. Arcos et al., Biotechnology Letters, Vol. 20, No. 6, pp. 617 to 621 (1998) disclose an enzymatic production of acylglycerols from conjugated lineolic acid and glycerol. However, Jose A. Arcos et al. also disclose that the final product composition is 5% unreacted fatty acid, 25% mono-, 52% di-, and 18% triester, and "the final mixture contained greater proportions of the fatty acid and monoester but less of the triester (13% fatty acid, 34% mono-, 48% di-, and 5% triester)" (page 619, top of right-hand column). Accordingly, the acylglycerols taught by Jose A. Arcos et al. substantially differ from the conjugated fatty acid glyceride of the presently claimed invention.

Claims 6 to 8 are rejected under 35 USC 103 as being unpatentable over Jose A. Arcos et al. in view of USP 5,554,646 to Cook et al. for the reasons set forth on pages 4 to 5 of the Office Action.

It was admitted in the Office Action that Jose A. Arcos et al. fail to teach the instant soybean milk, capsule or tablet form of acylglycerols of conjugated lineolic acid ("CLA").

Jose A. Arcos et al. teach an acylglyceride which substantially differs from the conjugated fatty acid glyceride of the presently claimed invention, as discussed above.

Jose A. Arcos et al. disclose the following in the left-hand column at the top of page 621:

"we suggest the use of a ratio of CLA to glycerol of 2.0 for the production of these fats [fats in some foods]. The mixture obtained after 7 h of reaction (8% monoester, 35% diester, 49% triester, 6% fatty acid and 2% glycerol) would be available for this purpose".

The above-described mixture also substantially differs from the conjugated fatty acid glyceride of the presently claimed invention.

In view of the above, Jose A. Arcos et al. do not teach or suggest a conjugated fatty acid glyceride which contains a predominate proportion of a triglyceride for the use in oral administration with respect of improvement of taste, the

Appl. No. 10/019,834
Amdt. dated June 25, 2003
Reply to Office Action of Dec. 30, 2002

promotion of digestion and absorption, preventing or treating obesity, improvement of lipid metabolism and the prophylaxis and therapeutic treatment of hyperlipidemia, as in the case of the presently claimed invention.

Cook et al. (USP 5,554,646) teach a method of reducing body fat and a method of preventing loss of protein using compositions containing CLA. However, in Cook et al., there is no disclosure regarding the suppression of the bitterness and/or astringency of the CLA.

It is therefore respectfully submitted that applicants' claimed invention is not anticipated or rendered obvious over the references, either singly or combined in the manner relied upon in the Office Action in view of the distinctions discussed hereinabove. It is furthermore submitted that there are no teachings in the references to combine them in the manner relied upon in the Office Action.

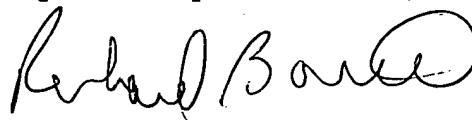
Reconsideration is requested. Allowance is solicited.

Appl. No. 10/019,834
Amdt. dated June 25, 2003
Reply to Office Action of Dec. 30, 2002

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Frishauf, Holtz, Goodman
& Chick, P.C.
767 Third Ave., 25th Floor
New York, NY 10017-2023
Tel. Nos. (212) 319-4900
(212) 319-4551/Ext. 219
Fax No.: (212) 319-5101
E-Mail Address: BARTH@FHGC-LAW.COM
RSB/ddf

Respectfully submitted,



Richard S. Barth
Reg. No. 28,180

Encs.: (1) PETITION FOR EXTENSION OF TIME
(2) MARKED-UP VERSION OF THE AMENDMENTS TO THE CLAIMS

MARKED-UP VERSION OF THE AMENDMENTS TO THE CLAIMS

1. (Amended) A conjugated fatty acid ester [containing] comprising a conjugated fatty acid with conjugated double bonds[, especially conjugated lineolic acid,] within the molecule, wherein the conjugated fatty acid forms an ester bond with glycerol to form a conjugated fatty acid glyceride which contains a predominate proportion of a triglyceride.

2. (Amended) [An] A composition for oral [agent with an action] administration to improve lipid metabolism, [an anti-] to prevent or treat obesity [action], or [an action] to prevent or therapeutically treat hyperlipidemia, said oral [agent] composition comprising a pharmaceutically effective amount of a conjugated fatty acid glyceride [containing, as the effective ingredient,] comprising a conjugated fatty acid with conjugated double bonds [, especially conjugated lineolic acid,] within the molecule, wherein said conjugated fatty acid glyceride contains a predominate proportion of a triglyceride to suppress the bitterness and/or astringency of the conjugated fatty acid, and pharmaceutically acceptable ingredients.

3. (Amended) [The use of a conjugated fatty acid ester containing a conjugated fatty acid with conjugated double bonds within the molecule, in the preparation of an oral agent for use in the improvement of] A method of improving lipid metabolism, [anti-] treating or preventing obesity, or [the prophylaxis] preventing and/or [therapeutic treatment of] therapeutically treating hyperlipidemia in an animal in which it is desired to improve the lipid metabolism, treat or prevent obesity, or prevent and/or therapeutically treat hyperlipidemia, which comprises orally administering to the animal a pharmaceutically effective amount of a conjugated fatty acid ester comprising a conjugated fatty acid with conjugated double bonds within the molecule, wherein the conjugated fatty acid within the molecule forms an ester bond with glycerol to form a conjugated fatty acid glyceride which contains a predominate proportion of a triglyceride.

4. (Amended) The [use of the conjugated fatty acid ester] method according to claim 3, wherein the conjugated fatty acid is conjugated lineolic acid.

5. (Amended) A milk-based drink for improving lipid metabolism, comprising a milk and a conjugated fatty acid

glyceride mixed with said milk, said conjugated fatty acid glyceride [containing] comprising a conjugated fatty acid with conjugated double bonds within the molecule, wherein said conjugated fatty acid glyceride contains a predominate proportion of a triglyceride to suppress the bitterness and/or astringency of the conjugated fatty acid.

6. (Amended) A soybean milk for improving lipid metabolism, comprising a soybean milk and a conjugated fatty acid glyceride mixed with said soybean milk, said conjugated fatty acid glyceride [containing] comprising a conjugated fatty acid with conjugated double bonds within the molecule, wherein said conjugated fatty acid glyceride contains a predominate proportion of a triglyceride to suppress the bitterness and/or astringency of the conjugated fatty acid.

7. (Amended) A [capsule type] dietary or nutritional supplement in the form of a capsule for improving lipid metabolism, comprising a capsule molded with a capsule base and a conjugated fatty acid glyceride encapsulated with the capsule, said conjugated fatty acid glyceride [containing] comprising a conjugated fatty acid with conjugated double bonds within the

Appl. No. 10/019,834
Amdt. dated June 25, 2003
Reply to Office Action of Dec. 30, 2002

molecule, wherein said conjugated fatty acid glyceride contains a predominate proportion of a triglyceride.

8. (Amended) A [tablet type] dietary or nutritional supplement in the form of a tablet for improving lipid metabolism, comprising a tablet base and a conjugated fatty acid glyceride, said [cinjugated] conjugated fatty acid glyceride [containing] comprising a conjugated fatty acid with conjugated double bonds within the molecule, wherein said conjugated fatty acid glyceride contains a predominate proportion of a triglyceride.